

N. KEITH CHAMBERS
EXECUTIVE DIRECTOR

2. On August 14, 2008, the Department of Human Rights filed a Complaint on behalf of Complainant alleging that Complainant was the victim of sexual harassment, as well as retaliation when Complainant was suspended, displaced from her workstation, denied overtime and constructively discharged from her employment after having reported the alleged sexual harassment.

3. On November 5, 2008, an Order was entered directing Complainant to provide the Commission with a current telephone number by November 17, 2008, so that she could participate in future telephone conference calls regarding the status of the case.

4. On November 26, 2008, an Order was entered, which noted that Complainant had failed to comply with the November 5, 2008 Order and gave Complainant another deadline until December 12, 2008 to supply the Commission with a telephone number where she could be reached. The Order cautioned Complainant that she could not continue to ignore Commission directives.

5. On December 5, 2008, an Order was entered, which noted that Complainant had supplied the Commission with a telephone number where she could be reached and set the matter for a telephone conference call on December 18, 2008.

6. On December 18, 2008, a telephone conference was conducted, and the parties were given deadlines for submitting and responding to discovery requests.

7. On January 12, 2009, the Commission received from Respondent copies of certificates of service indicating that it had served on Complainant Interrogatories and Requests to Produce documents.

8. On February 26, 2009, Respondent filed a motion to extend the deadline for serving supplemental discovery requests since Complainant had failed to serve any responses to its initial discovery requests, although the time for doing so had expired.

9. On March 10, 2009, a telephone conference call was conducted, which addressed Respondent's motion for an extension of time to serve supplemental discovery requests. During the conference call, Complainant indicated that she had not answered any of the discovery requests because she had not yet obtained an attorney. Complainant was given until March 24, 2009 to serve responses to all outstanding discovery requests.

10. On April 10, 2009, Respondent filed a motion to extend the deadline for serving supplemental discovery requests. In the motion, counsel for Respondent again alleged that Complainant had not served any responses to any of the discovery requests.

11. On May 7, 2009, a telephone conference was conducted, which addressed Respondent's motion for an extension of time to conduct supplemental discovery. During the telephone call, Complainant explained that she had not served any responses because she had been unable to obtain an attorney, had been unable to understand some of the questions, was unwilling to call Respondent's counsel to clarify what had been asked of her, and believed that some of the questions were irrelevant.

12. On May 7, 2009 Order, an Order was entered, which gave Complainant one more opportunity to serve Respondent with responses by May 21, 2009 that either directly answered the individual Interrogatories/Requests to Produce or provided a reason why any Interrogatory or Request to Produce was improper. The Order cautioned Complainant that should she not comply with the Order that a future order would be entered, recommending that the case be dismissed due to her failure to prosecute the claim.

13. On May 29, 2009, Respondent filed the instant motion to dismiss after noting that Complainant had failed to serve Respondent with any responses to outstanding discovery requests and had not contacted Respondent's counsel to seek an extension or request assistance in understanding Respondent's discovery requests.

14. Complainant has failed to file a response to Respondent's motion to dismiss as of the date of this Recommended Order.

Conclusions of Law

1. A Complaint may be dismissed when a party engages in conduct that unreasonably delays or protracts proceedings. See, 56 Ill. Admin. Code, Ch. XI, §5300.750(e).

2. The Complainant has unreasonably delayed proceedings by failing to comply with Commission directives requiring her to answer discovery requests that would allow this case to proceed to a public hearing.

Discussion

Under the Commission's procedural rules, an administrative law judge may recommend to the Commission that a complaint be dismissed where a complainant engages in conduct that unreasonably delays or protracts proceedings. (See, 56 Ill. Admin. Code, Ch. XI, §5300.750(e).) On review, the Commission has upheld the use of such discretion to dismiss complaints in circumstances which are analogous to the case at bar. See, for example, *Ramirez and Wasco Spring Company*, 40 Ill. HRC Rep. 266 (1988), and *Hariford and Mitsubishi Motor Manufacturing of America*, IHRC, ALS No. 10629, August 16, 2000.

Here, the circumstances also indicate that Complainant's inaction has served to unreasonably delay these proceedings. Specifically, aside from her initial failure to provide the Commission with a telephone number where she could be reached, Complainant failed to provide discovery responses by the deadlines established in the December 18, 2008, March 10, 2009, and May 7, 2009 Orders, even though she was specifically cautioned in the May 7, 2009 Order that her failure to do so could result in an Order recommending that her case be dismissed for want of prosecution. Moreover, while Complainant asserted at two telephone conference calls that she was reluctant to respond to any discovery requests in the absence of an attorney, I would note that the Complaint in this case was filed on August 14, 2008, which should have given Complainant ample opportunity to obtain an attorney. Additionally, Complainant's apparent unwillingness to contact Respondent's counsel to clarify what Respondent is asking in the discovery requests produces an unacceptable stalemate in the instant proceedings and renders it difficult for the Commission to take any action with regard to the case except to dismiss it. See, for example, *Foster and Old Republic General Services, Inc.*, IHRC, ALS No. 5011, November 8, 1993.

Recommendation

Accordingly, I recommend that the Complaint and the underlying Charge of Discrimination of Jennifer Curry be dismissed with prejudice.

HUMAN RIGHTS COMMISSION

BY: _____

MICHAEL R. ROBINSON
Administrative Law Judge
Administrative Law Section

ENTERED THE 28TH DAY OF JANUARY, 2010